

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-35650
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: May 13, 2013
County: Wayne (82-18)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on May 13, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits effective April 1, 2013?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant applied for benefits for: received benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

2. On February 1, 2013, the Department sent Claimant a Mid-Certification Contact Notice. Exhibit 1.
3. On February 22, 2013, Claimant returned a completed Mid-Certification Contact Notice. Exhibit 1.
4. On March 11, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$22 effective April 1, 2013, ongoing. Exhibit 1.
5. On March 15, 2013, the Department sent Claimant a Verification Checklist (VCL) due by March 25, 2013, that requested proof of medical expenses.
6. Claimant submitted the proof of medical expenses at time of hearing.
7. On March 14, 2013, Claimant filed a hearing request, protesting her FAP allotment. Exhibit 2.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

At the hearing, the FAP Budget for the benefit period of April 1, 2013, ongoing, was reviewed. Exhibit 1. Claimant verified the amount used by the Department to determine her unearned income. The Department properly calculated Claimant's unearned income from her Retirement, Survivors and Disability Insurance (RSDI) to be \$1,367. See BEM 503 (November 2012), p. 21. Claimant also confirmed that her FAP group size was one. A review of the FAP budget shows that the Department properly applied the \$148 standard deduction applicable to Claimant's group size. RFT 255 (October 2012), p. 1.

Claimant is a Senior/Disabled/Veteran (SDV) member of her FAP group, eligible for a deduction for verified medical expenses she incurred in excess of \$35. BEM 554 (October 2012), p. 1. A review of the FAP Budget showed a medical deduction in the amount of \$70. Exhibit 1. The Department presented as evidence an SOLQ Report, which showed that Claimant paid a Part B Medicare Premium in the amount of \$104.90. Exhibit 1. Thus, Claimant was eligible for the \$70 medical deduction (\$104.90 less the \$35 threshold). BEM 554, p. 1. Claimant agreed with the \$70 deduction; however, she asserted she had additional medical expenses that weren't considered.

To be countable in the FAP budget, a medical bill cannot be overdue, which means that the bill is currently incurred (for example, in the same month or ongoing) or currently billed (the client received the bill for the first time for a medical expense provided earlier and the bill is not overdue). BEM 554, p. 9. Expenses are budgeted for the month they are billed or otherwise become due. BEM 554, p. 3.

At the hearing, the Hearing Summary record indicated that Claimant was previously allowed \$2,209 in monthly medical expenses. Moreover, the Hearing Summary record indicated that this amount was in error and the Department readjusted the medical expenses to \$70 when it processed Claimant's Mid-Certification Contact Notice. The Department testified that the \$2,209 in medical expenses were based on medical bills dated in 2011 and were no longer current.

Claimant testified that she had additional medical expenses both ongoing and/or one-time. However, until today's hearing, Claimant did not submit those medical expenses for the Department to review in response to the March 15, 2013, VCL. Moreover, Claimant indicated her Medicare premium as the only medical costs in the Mid-Certification Contact Notice. Exhibit 1. Because Claimant did not submit any updated medical expenses, the Department acted in accordance with Department policy when it only considered Claimant's Medicare premium in the calculation of Claimant's medical expense deduction. BEM 554, pp. 7-9.

Thus, the adjusted gross income is calculated by subtracting the \$148 standard deduction and \$70 medical deduction from Claimant's \$1,367 unearned income. This amount is found to be \$1,149. See BEM 556 (October 2011), pp. 1-6.

Because Claimant is an SDV member of her FAP group, she is also eligible for shelter expenses above the standard amount. BEM 554, p. 1; RFT 255, p. 1. Claimant's monthly housing expense is \$555, which Claimant did not dispute. See Exhibit 1. The Department gives a flat utility standard to all clients responsible for utility bills. BEM 554, pp. 11-12. The utility standard of \$575 (see RFT 255, p. 1.) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$575 amount. At the hearing, Claimant also disputed that she had additional utility expenses. However, as indicated above, the Department gives a flat utility standard to all clients. BEM 554, pp. 11-12. Thus, Claimant is not entitled to additional utility expenses.

Furthermore, the total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit; this amount is found to be \$1,130. Then, the Department subtracts the total shelter amount from fifty percent of the adjusted gross income (\$574); this amount is found to be \$556. BEM 556, pp. 1-6. Thus, the Department properly calculated Claimant's shelter expenses.

Finally, the FAP group net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. BEM 556, pp. 1-6. The FAP benefit group's net income is found to be \$593 (\$1,149 adjusted gross income less the \$556 in shelter expenses). A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, Claimant's proper FAP benefit issuance is found to be \$22, the same amount calculated by the Department. RFT 260 (December 2012), p. 6. Thus, the Department properly calculated Claimant's FAP budget in accordance with Department policy for the effective benefit period of April 1, 2013, ongoing.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated above and on the record, finds that the Department did act properly did not act properly.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated above and on the record.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 21, 2013

Date Mailed: May 23, 2013

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that affect the substantial rights of the claimant:
 - failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

EJF/pf

cc:

